



STATE OF NEW YORK

**UNEMPLOYMENT INSURANCE APPEAL BOARD**

PO Box 15126

Albany NY 12212-5126

**DECISION OF THE BOARD**

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Mailed and Filed: MARCH 09, 2023

IN THE MATTER OF:

Appeal Board No. 626984

PRESENT: JUNE F. O'NEILL, MEMBER

The Department of Labor issued the initial determination holding the claimant ineligible to receive benefits, effective September 19, 2022, on the basis that the claimant was not capable of work. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There was an appearance by the claimant. By decision filed November 23, 2022 (), the Administrative Law Judge sustained the initial determination.

The claimant appealed the Judge's decision to the Appeal Board.

Based on the record and testimony in this case, the Board makes the following

**FINDINGS OF FACT:** The claimant worked for a home health aide and personal care aide agency as a personal care aide for four years. She stopped working in June 2022 due to various medical reasons, as she suffers from depression, anxiety, mood swings, stress, as well as lower back and hip issues. The claimant filed a claim for benefits, effective September 19, 2022.

On November 8, 2022, the claimant's primary doctor determined that the claimant still could not work as a personal care aide and could only work in positions that are less physically and mentally demanding. However, the primary care doctor did not specify what sort of work the claimant could perform, and instead deferred the determination of same to her orthopedic and mental health specialists. The claimant does not yet know what sort of work

she will be able to perform since that will be determined in the future. Her only other employment history involves working as a home health aide.

OPINION: The credible evidence establishes that the claimant has not been capable of work since filing her claim for benefits effective September 19, 2022. The claimant acknowledges that she has not been released to return to her usual duties as a personal care aide and that no medical authority has yet determined what, if any, work she can perform in light of her medical issues. Under these circumstances, the claimant was properly held ineligible to receive benefits. Accordingly, the initial determination must be sustained.

DECISION: The decision of the Administrative Law Judge is affirmed.

The initial determination, holding the claimant ineligible to receive benefits, effective September 19, 2022, on the basis that the claimant was not capable of work, is sustained.

The claimant is denied benefits with respect to the issues decided herein.

JUNE F. O'NEILL, MEMBER